

ORDINANCE 122723

AN ORDINANCE relating to the use of public right-of-way for construction on private property; amending Seattle Municipal Code Section 15.22.020.

WHEREAS, for purposes of constructing, demolishing, altering, or repairing a building, Section 15.22.020 of the Seattle Municipal Code prohibits the issuance of permits to access any portion of the public right-of-way that is not immediately adjacent to the property to be improved, unless the landowner first obtains the written permission of other adjoining landowners; and

WHEREAS, this requirement has impeded the City's ability to fairly and effectively administer Title 15; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 15.22.020 of the Seattle Municipal Code is amended as follows:

15.22.020 Application for use permit.

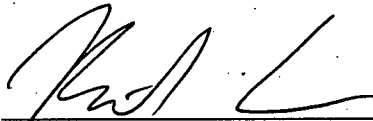
An application shall be filed with the Superintendent of Parks and Recreation for use of a park drive or boulevard and with the Director of Transportation for use of other public places for construction, demolition, alteration, or repair of a building. The application shall specify the proposed use of the area and the period of time the applicant desires to use the specified area and be accompanied by a plan of the definite limits of areas desired for use. The use shall be confined to the public place adjoining the property to be improved, unless the applicant has submitted an affidavit that notice was provided to owners of property abutting the public place specified in the application and the authorizing official determines that the proposed construction, demolition, alteration, or repair reasonably requires ~~((but if the application is accompanied by written permission of other adjacent property owners, the authorizing official may allow the))~~ use of a



public place extending beyond the immediately adjoining property. For the purposes of this section, notice to owners of property abutting the public place shall include a copy of the application materials submitted to the authorizing official. Such notice shall be mailed by First Class United States Mail to abutting property owners on or within 5 calendar days of the filing of an application to the authorizing official.

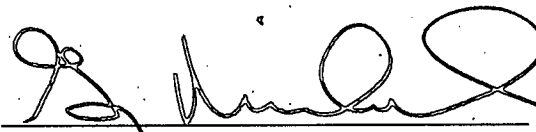
Section 2. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the 23rd day of June, 2008, and signed by me in open session in authentication of its passage this 23rd day of June, 2008.



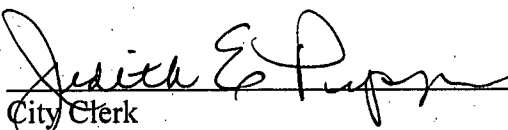
President _____ of the City Council

Approved by me this 25th day of June, 2008.



Gregory J. Nickels, Mayor

Filed by me this 25th day of June, 2008.



City Clerk

(Seal)

FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	DOF Analyst/Phone:
Seattle Department of Transportation	Brian de Place / 233-3588	Stephen Barham/ 733-9084

Legislation Title:

An ordinance relating to the use of public right-of-way for construction on private property; amending Seattle Municipal Code Section 15.22.020.

- **Summary of the Legislation:**

The attached proposed Council Bill revises and clarifies the existing language in Title 15 of the Seattle Municipal Code regarding the permitted use of the public right-of-way for the purposes of construction on private property. This proposal would remove the requirement for property owners applying for a construction permit to obtain permission from neighboring landowners in order to use public right-of-way that extends beyond the immediately adjoining property of the applicant, allowing the Seattle Department of Transportation to make the final determination about the proper use of the right-of-way.

- **Background:** *(Include brief description of the purpose and context of legislation and include record of previous legislation and funding history, if applicable):*

The amendments authorized by this Bill support recent court decisions holding that cities (not private landowners) have the ultimate authority over the management of city right-of-way.

- *Please check one of the following:*

 X **This legislation does not have any financial implications.**



City of Seattle

Gregory J. Nickels, Mayor

Office of the Mayor

March 11, 2008

Honorable Richard Conlin
President
Seattle City Council
City Hall, 2nd Floor

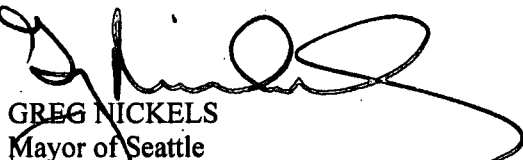
Dear Council President Conlin:

I am transmitting the attached proposed Council Bill that revises the Seattle Municipal Code, allowing the Seattle Department of Transportation to make the final determination about the proper use of the right-of-ways that extend beyond the immediately adjoining property of the applicant.

The SMC currently requires property owners who need to use adjacent public right-of-way in connection with the construction, demolition, alteration or repair of a building to apply for a permit and to obtain permission from neighboring landowners to use the adjacent public right-of-way. Amendments to the SMC authorized by this Bill support recent court decisions holding that cities (not private landowners) have the ultimate authority over the management of city right-of-way.

Thank you for your consideration of this legislation. Should you have questions, please contact Brian de Place at 233-3588.

Sincerely,



GREG NICKELS
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

600 Fourth Avenue, 7th Floor, P.O. Box 94749, Seattle, WA 98124-4749

Tel: (206) 684-4000; TDD: (206) 615-0476 Fax: (206) 684-5360, Email: mayors.office@seattle.gov

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WHEREAS, this requirement has created conflict between neighbors and complicated the City's ability to fairly and effectively administer Title 15; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 15.22.020 of the Seattle Municipal Code is amended as follows:

15.22.020 Application for use permit.

An application shall be filed with the Superintendent of Parks and Recreation for use of a park drive or boulevard and with the Director of Transportation for use of other public places for construction, demolition, alteration, or repair of a building. The application shall specify the proposed use of the area and the period of time the applicant desires to use the specified area and be accompanied by a plan of the definite limits of areas desired for use. The use shall be confined to the public place adjoining the property to be improved, unless the authorizing official determines that the proposed construction, demolition, alteration, or repair reasonably requires ~~((but if the application is accompanied by written permission of other adjacent property owners, the authorizing official may allow the))~~ use of a public place extending beyond the immediately adjoining property.

1 Section 2. This ordinance shall take effect and be in force thirty (30) days from and after
2 its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days
3 after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

4 Passed by the City Council the ____ day of _____, 2008, and
5 signed by me in open session in authentication of its passage this
6 ____ day of _____, 2008.

7
8
9 _____
10 President _____ of the City Council

11 Approved by me this ____ day of _____, 2008.
12

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14 _____
15 Gregory J. Nickels, Mayor

16 Filed by me this ____ day of _____, 2008.
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19 _____
20 City Clerk

21 (Seal)
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STATE OF WASHINGTON – KING COUNTY

--SS.

226271
CITY OF SEATTLE, CLERKS OFFICE

No.

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

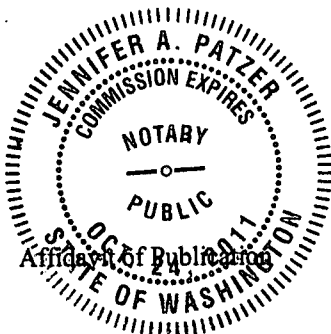
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:122723 ORDINANCE

was published on

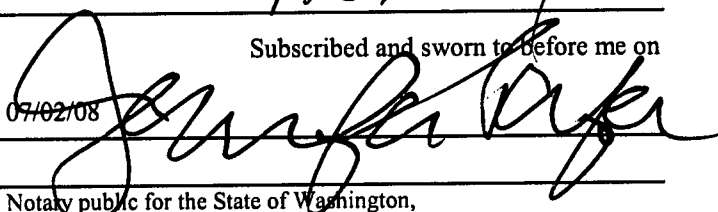
07/02/08

The amount of the fee charged for the foregoing publication is the sum of \$ 112.40, which amount has been paid in full.




Subscribed and sworn to before me on

07/02/08


Notary public for the State of Washington,
residing in Seattle

City of Seattle

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Section 2. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the 23rd day of June, 2008, and signed by me in open session in authentication of its passage this 23rd day of June, 2008.

Nick Licata

President of the City Council

Approved by me this 25th day of June, 2008.

Gregory J. Nickels, Mayor

Filed by me this 25th day of June, 2008.

(Seal) Judith Pippin

City Clerk

Publication ordered by JUDITH PIPPIN, City Clerk

Date of publication in the Seattle Daily Journal of Commerce, July 2, 2008.

78(226371)

State of Washington, King County